

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

CITIMORTGAGE, INC.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 4:12CV246 CDP
	)	
CHICAGO BANCORP, INC., et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

A number of motions are pending in this complicated case, including cross motions for summary judgment. I will treat those motions as being directed to Count I of the First Amended Complaint. This order rules on most, but not all, of the other pending motions. Any motions not ruled here remain under submission. I have carefully reviewed the other pending motions and the extensive briefs filed on each, and believe that most of them should be denied.

I will deny the motions to strike, although that does not necessarily mean I am accepting any of the challenged materials as probative. I will give the disputed affidavits the consideration they deserve under the rules of evidence, meaning that I will disregard some portions, and will treat some portions as nothing more than arguments of counsel, as may be appropriate. The references to statements made in mediation will not be stricken because they are not being used for any of the

purposes forbidden by Rule 408, Fed. R. Evid. I will deny the renewed motion for sanctions. To the extent the argument is that Mr. Calk testified falsely at the deposition, that argument is better raised as impeachment at trial. Finally, I will enter an amended Case Management Order that includes allowing defendant Chicago Bancorp to take the deposition of Crispin Shannon as it has requested.

**IT IS HEREBY ORDERED** that:

Defendant Chicago Bancorp's motion to strike portions of the Shannon affidavit [#111] is denied.

Plaintiff's motion to strike portions of the Calk affidavits [#144] is denied.


Plaintiff's renewed motion for sanctions [#181] is denied.

Defendant Chicago Bancorp's motion to strike portions of plaintiff's memorandum [#187] is denied.

Plaintiff's motion for costs [#195] is denied as moot.

Defendant Chicago Bancorp's motion for extension of discovery (response to plaintiff's proposed amendment to the CMO) [#198] is granted.

All other motions remain under submission. A Second Amended Case Management Order is entered this same date.

  
**CATHERINE D. PERRY**  
UNITED STATES DISTRICT JUDGE

Dated this 31<sup>st</sup> day of December, 2013.